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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 SECURITIES AND EXCHANGE COMMISSION,

16 Plaintiff,

17 v.

18 PETER C. SON, JIN K. CHUNG,
19 SNC ASSET MANAGEMENT, INC., and
20 SNC INVESTMENTS, INC.,

21 Defendants.

Case No. CV-09-2554 MMC

JOINT CASE MANAGEMENT
STATEMENT

Date: September 25, 2009

Time: 10:30 a.m.

Place: Courtroom 7, 19th Floor

Pursuant to the Court's Standing Order, plaintiff Securities and Exchange Commission (the "Commission") and defendants Peter C. Son, SNC Asset Management, Inc. ("SNCA") and SNC Investment, Inc. ("SNCI") submit this Joint Case Management Statement.

1. JURISDICTION AND SERVICE

This is a civil enforcement action brought by the Commission alleging fraud, in violation of the federal securities laws. The Commission brings this action pursuant to Sections 20(b) and 20(d) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77t(b) and 77t(d)] and Sections 21(d) and 21(e) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78u(d) and 78u(e)].

This Court has jurisdiction over this action pursuant to Sections 20(b) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b) and 77v(a)] and Sections 21(d), 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e) and 78aa]. Defendants, directly or indirectly, made use of the means and instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange in connection with the acts, practices and courses of business alleged in this complaint.

There are no issues regarding personal jurisdiction. Venue is proper in the Northern District of California pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v] and Section 27 of the Exchange Act [15 U.S.C. § 78aa]. During the period described in this complaint, SNCA had its principal place of business in this district and Mr. Son resided in this district. In addition, acts, practices, and courses of business that form the basis for the violations alleged in this complaint occurred in the district.

All defendants other than Jin K. Chung have been served. The Commission will continue to attempt to locate and serve Mr. Chung and provide reports to the Court as necessary.

2. FACTS

A. The Commission's Description of the Case

According to the Commission, Mr. Son and Mr. Chung defrauded hundreds of investors in an \$80 million Ponzi scheme that began no later than 2003. The Commission alleges that Mr. Son and Mr. Chung targeted Korean-American investors, inducing them to invest with their

1 company, defendant SNCA, which purportedly offered a pooled foreign exchange (or “Forex”)
2 trading program.

3 The Commission alleges that Mr. Son and Mr. Chung told investors that SNCA generated
4 steady 50 percent annual profits from foreign currency trading and promised that SNCA would
5 provide them with annual returns of up to 36 percent. The Commission further alleges that Mr.
6 Son and Mr. Chung also touted SNCA’s association with defendant SNCI, which Mr. Son and
7 Mr. Chung also controlled. According to the Commission, Mr. Son and Mr. Chung provided
8 potential SNCA investors with promotional materials extolling Mr. Son’s and SNCI’s
9 prominence in the Forex industry.

10 The Commission alleges that, in fact, defendants did not place investor funds in a foreign
11 currency trading program. Instead, according to the Commission, Mr. Son and Mr. Chung used
12 investors’ funds to pay “trading returns” to certain investors and to enrich themselves. The
13 Commission alleges that defendants deceived investors by providing them with monthly account
14 statements reflecting account balances that did not exist.

15 According to the Commission, defendants’ scheme collapsed in October 2008. The
16 Commission alleges that Mr. Son and Mr. Chung closed SNCA and SNCI, drained the
17 companies’ bank accounts, and fled, leaving investors empty-handed. During the scheme,
18 according to the Commission, Mr. Son and Mr. Chung transferred substantial sums to offshore
19 bank accounts.

20 **B. Defendants’ Description of the Case**

21 Defendants will provide their factual contentions upon the conclusion of the criminal
22 prosecution of Mr. Son.

23 **C. Principal Facts in Dispute**

24 Defendants will identify the principal facts in dispute upon the conclusion of the criminal
25 prosecution of Mr. Son.

1 **3. LEGAL ISSUES**

2 **A. The Commission**

3 The Commission alleges that defendants violated the antifraud provisions of the federal
4 securities laws. Specifically, the Commission alleges that defendants committed fraud in the
5 offer or sale of securities in violation of Section 17(a) of the Securities Act, and in connection
6 with the purchase or sale of securities, in violation of Section 10(b) of the Exchange Act and
7 Rule 10b-5 thereunder. The Commission further alleges that SNCI aided and abetted
8 defendants' violations of Section 10(b) and Rule 10b-5.

9 **B. Defendants**

10 Defendants dispute the Commission's legal allegations. Defendants will provide their
11 legal contentions upon the conclusion of the criminal prosecution of Mr. Son.

12 **4. MOTIONS**

13 No motions are pending and none is currently anticipated in the near future.
14 Concurrently with the filing of this action, the Commission filed an *ex parte* motion seeking to
15 enjoin defendants from on-going violations of the securities laws and to prevent further
16 dissipation of investor funds. The Court entered a Temporary Restraining Order and an Order to
17 Show Cause on June 10, 2009. *See* Docket No. 14. Mr. Son, SNCA, and SNCI stipulated to the
18 entry of a Preliminary Injunction, which the Court entered on June 19, 2009. *See* Docket No. 26.
19 The Temporary Restraining Order against Mr. Chung expired on July 9, 2009, after a one-time
20 extension by the Court on June 19, 2009. *See* Docket Nos. 27 & 32.

21 **5. AMENDMENT OF PLEADINGS**

22 The parties do not expect to add or dismiss any parties, claims, or defenses.

23 **6. EVIDENCE PRESERVATION**

24 The Commission has taken steps to preserve its investigatory files related to this matter.

25 Defendants have also preserved all documents and tangible things in their possession
26 custody or control.

1 **7. DISCLOSURES**

2 Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, counsel for the parties met
3 by telephone on August 25, 2009. At the meeting, counsel agreed to serve their initial
4 disclosures pursuant to Rule 26(a) by September 18, 2009.

5 In its disclosures, the Commission identified approximately 21 individuals likely to have
6 discoverable information that it might use to support its claims. In addition, the Commission
7 provided an index to the documents it is disclosing under Rule 26(a), which are largely
8 documents it obtained in its investigation preceding the filing of this action. The Commission
9 has offered to make the disclosed documents available to defendants for inspection and copying.

10 **8. DISCOVERY**

11 Pursuant to the Temporary Restraining Order permitting expedited discovery, the
12 Commission served subpoenae for documents on several financial institutions seeking records
13 pertaining to defendants' accounts and other accounts. The parties have not served any other
14 discovery requests.

15 The parties jointly propose that the Court permit each party to take up to 20 depositions
16 and to propound up to 100 interrogatories without further leave of the Court. In addition to
17 depositions, the Commission anticipates further discovery requests, for documents or other
18 information, to third parties, and to the defendants, including by subpoena or document or
19 inspection requests, interrogatories, and requests for admissions.

20 The parties jointly propose the following discovery schedule:

21 Last day to identify expert witnesses: March 31, 2010

22 Last day to complete fact and expert discovery: April 30, 2010

23 **9. CLASS ACTIONS**

24 This matter is not a class action.

25 **10. RELATED CASES**

26 The Commodity Futures Trading Commission ("CFTC") filed a civil fraud action against
27 the same defendants named in this action. *See CFTC v. SNC Asset Management, Inc., et. al.*,
28 Case No. CV-09-2555 (N.D. Cal. filed June 9, 2009). In addition, the CFTC seeks to recover

1 proceeds of the alleged fraud from Mr. Son's wife, Ann Lee, who is named as a relief defendant.
 2 The CFTC's complaint alleges that defendants' foreign exchange trading program violated the
 3 antifraud provisions of the Commodities Exchange Act. The Court entered a Related Case Order
 4 associating this action and the CFTC's action on June 9, 2009. *See* Docket No. 13.

5 In addition to the civil actions, the Office of the United States Attorney for the Northern
 6 District of California filed criminal charges against Mr. Son arising out of substantially the same
 7 facts alleged in the civil complaints. *See United States v. Peter C. Son*, Case No. CR 09-00755
 8 DLJ (N.D. Cal. filed July 27, 2009). Mr. Son waived indictment on July 27, 2009.

9 **11. RELIEF**

10 The Court's Preliminary Injunction enjoins defendants from on-going violations of the
 11 securities laws, freezes defendants' assets, requires a verified accounting of defendants' funds,
 12 orders defendants to repatriate funds to the United States, permits expedited discovery, and
 13 requires defendants to preserve documents relating to the Commission's allegations. *See* Docket
 14 No. 26. In addition to the preliminary relief ordered by the Court, the Commission seeks the
 15 following:

16 A. Injunctive Relief: A permanent injunction against all defendants prohibiting them
 17 from directly or indirectly violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] and
 18 Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R.
 19 § 240.10b-5]. The Commission also seeks to enjoin SNCI from aiding and abetting
 20 Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §
 21 240.10b-5].

22 B. Disgorgement: An order directing all defendants to disgorge unlawful profits,
 23 including prejudgment interest.

24 C. Penalties: An order imposing civil monetary penalties on all defendants pursuant
 25 to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d) of the Exchange Act
 26 [15 U.S.C. § 78u(d)] and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)].
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 28

12. SETTLEMENT AND ADR

The parties met and conferred regarding an Alternative Dispute Resolution plan and filed a Notice of Need for ADR Phone Conference on September 3, 2009. *See* Docket No. 35. An ADR phone conference has been scheduled for September 23, 2009. At present, the Commission and defendants believe it will be necessary to develop the facts through discovery before there can be any real chance to settle the case. The parties recommend that the Court refer this case for a settlement conference with a judicial officer at a date after the completion of some discovery.

13. CONSENT TO MAGISTRATE JUDGE

The parties do not consent to proceed before a magistrate judge.

14. OTHER REFERENCES

The parties do not believe this case is suitable for binding arbitration. As noted above, however, the parties recommend that a settlement judge be appointed following the completion of some discovery.

15. NARROWING OF ISSUES

The parties have not yet identified any issues that can be narrowed by agreement or motion.

16. EXPEDITED SCHEDULE

In light of the criminal charges against Mr. Son, the parties do not believe that this matter is suitable for expedited scheduling.

17. SCHEDULING

The parties jointly propose the following schedule:

Last day to identify expert witnesses: March 31, 2010

Last day to complete fact and expert discovery: April 30, 2010

Last day to hear dispositive motions: July 2, 2010

Pre-trial conference: July 13, 2010

Trial: August 2, 2010

1 **18. TRIAL**

2 The Commission has not requested a jury trial. Defendants reserved their right to a jury
3 trial. The parties estimate the trial will take approximately 15 days.

4 **19. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS**

5 Pursuant to Local Rule 3-16(a), the Commission is not required to file a Certificate of
6 Interested Entities or Persons. Defendants are unaware of any interested persons or entities.

7 **20. OTHER MATTERS**

8 As noted above, the Court related this matter to the civil action brought by the CFTC.
9 The Commission, the CFTC, and defendants propose that discovery in the two actions proceed in
10 parallel. At the close of discovery, the parties would agree to meet and confer to decide whether
11 to recommend that the two actions be tried together.

12 DATED: September 18, 2009

Respectfully submitted,

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14
15 /s/ Robert L. Tashjian

16 ROBERT L. TASHJIAN

17 Attorney for Plaintiff

SECURITIES AND EXCHANGE COMMISSION

18
19 /s/ John H. Feiner

20 JOHN H. FEINER

21 Attorney for Defendants

PETER C. SON,

22 SNC ASSET MANAGEMENT, INC., and

23 SNC INVESTMENTS, INC.
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